

54. (Amended) The lid of claim 1, wherein the second closure is configured to latch the first closure in an open position.

55. (Amended) The closure of claim 9, wherein the second flap is configured to latch the first flap in an open position.

56. (Amended) The closure of claim 23, wherein the second flap is configured to latch the first flap in an open position.

REMARKS

Claims 1, 4-28, and 42-56 are pending in the application. By this Amendment, Applicants propose amendments to claims 1, 9, 23, and 54-56. Applicants respectfully request entry of this Amendment and prompt reconsideration and examination of the application.

In the Office Action, the Examiner rejected claims 1, 4, 5, 9-11, 13-17, 19, 21, 23-25, 27, 42-44, and 46-48 under 35 U.S.C. § 102(b) over U.S. Patent No. 3,016,168 to Larson ("Larson"). In addition, claims 1, 4, 7-11, 13-17, 19-21, 23-25, 27, 28, 42-44, 46-48, and 50-56 were rejected under 35 U.S.C. § 102(e) based on U.S. Patent No. 6,382,476 to Randall et al. ("Randall et al."); claims 22 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Larson in view of U.S. Design Patent No. Des. 341,380 to Morgan, Jr. et al. ("Morgan, Jr. et al."); claims 6, 12, 18, 26, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Randall et al. in view of U.S. Patent No. 6,070,752 to Nava et al. ("Nava et al."); and rejected claims 22

and 49 under 35 U.S.C. § 103(a) as being unpatentable over Randall et al. in view of U.S. Design Patent No. Des. 341,380 to Morgan, Jr. et al. Applicants respectfully traverse these rejections.

First, Applicants respectfully submit that Larson does not disclose, teach, or suggest the recitations of independent claims 1, 9, 23, 50, and 52.

Particularly, regarding amended claim 1, Larson does not disclose or suggest, “the panel being configured to latch the second closure in an open position.” To the contrary, Larson discloses a cover 48 that may be latched to a web 32 to seal (i.e., close) an opening in a container. Larson makes no mention of latching the cover 48 in an open position as recited in amended claim 1.

For reasons similar to those discussed above in connection with claim 1, Larson also fails to disclose the features of independent claims 9, 23, 50, and 52. Accordingly, Applicants respectfully request withdrawal of the § 102(b) rejection based on Larson.

Second, Applicants respectfully submit that Randall et al. does not disclose, teach, or suggest the features of independent claims 1, 9, 23, 50, and 52.

Specifically, regarding amended claim 1, Randall et al. does not disclose or suggest, “the panel being configured to latch the second closure in an open position.” Instead, Randall et al. merely discloses releasably retaining lid deck 202 in the closed position and retaining the lid deck 202 and intermediate member deck 102 together in a nested relationship. Randall et al. makes no mention of latching the lid deck 202 in an open position, as recited in amended claim 1.

For reasons similar to those discussed above in connection with claim 1, Randall et al. also fails to disclose the features of independent claims 9, 23, 50, and 52.

Accordingly, Applicants respectfully request withdrawal of the § 102(e) rejections based on Randall et al.

Morgan, Jr. et al. and Nava et al. fail to overcome the above-noted deficiencies of Larson and Randall et al. Accordingly, Applicants respectfully request that the § 103(a) rejections based on Larson or Randall et al. in combination with the other references be withdrawn.

Claims 4-8, 10-22, 24-28, 42-49, 51, and 53-56 depend from one of independent claims 1, 9, 23, 50, and 52, and are therefore allowable for at least the same reasons the independent claim from which they depend is allowable. In addition, each of the dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each is separately patentable.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1, 4-28, and 42-56 in condition for allowance. Applicants submit that the proposed amendments of claims 1, 9, 23, and 54-56 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were earlier claimed. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

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Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

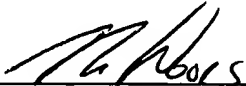
The Examiner is invited to call the undersigned at (202) 408-4157 if the Examiner deems that a telephone conversation would further the prosecution of the application.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17, which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.116, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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APPENDIX TO AMENDMENT

VERSION WITH MARKINGS TO SHOW CHANGES MADE

AMENDMENTS TO THE CLAIMS:

1. (Twice Amended) A lid for use with a container, comprising:

a panel comprising a first closure and a second closure, the panel being configured to latch the second closure in an open position;

a first dispensing opening in the panel, the first closure being configured to at least partially cover the first dispensing opening; and

a second dispensing opening in the first closure, the second closure being configured to cover the second dispensing opening.

9. (Twice Amended) A closure for use with a container, comprising:

a panel comprising a first flap and a second flap, the panel being configured to latch the second flap in an open position; and

a dispensing opening in the panel, the first flap being configured to reduce a size of the dispensing opening, the second flap being configured to close the dispensing opening.

23. (Twice Amended) A closure for use with a container, comprising:

a panel comprising a first flap and a second flap, the panel being configured to latch the second flap in an open position;

a first dispensing opening in the panel; and

a second dispensing opening in the first flap, the first flap being pivotal between an open position exposing the first dispensing opening and a closed position modifying the first dispensing opening to the second dispensing opening, and the second flap being pivotal between an open position exposing the first flap and the second dispensing opening and a closed position covering the first flap and the second dispensing opening.

54. (Amended) The lid of claim 1, [wherein the panel is configured to latch the second closure in an open position, and] wherein the second closure is configured to latch the first closure in an open position.

55. (Amended) The closure of claim 9, [wherein the panel is configured to latch the second flap in an open position, and] wherein the second flap is configured to latch the first flap in an open position.

56. (Amended) The closure of claim 23, [wherein the panel is configured to latch the second flap in an open position, and] wherein the second flap is configured to latch the first flap in an open position.